

1 Mark G. Tratos (Bar No. 1086)
 2 tratosm@gtlaw.com
 3 Donald L. Prunty, Esq. (Bar No. 8230)
 4 Laraine M. I. Burrell (Bar No. 8771)
 5 burrelll@gtlaw.com
 6 Moorea Katz (Bar No. 12007)
 7 katzmo@gtlaw.com
 8 GREENBERG TRAURIG
 9 3773 Howard Hughes Parkway
 10 Suite 400 North
 11 Las Vegas, Nevada 89169
 12 Telephone: (702) 792-3773
 13 Facsimile: (702) 792-9002

14 Counsel For Plaintiff
 15 WILLIAM WALTERS

16 **UNITED STATES DISTRICT COURT**
 17 **DISTRICT OF NEVADA**

18 WILLIAM WALTERS, an individual,
 19
 20 Plaintiff,

21 v.

22 COOPERS PICKS, LLC a Florida limited
 23 liability company; MICHAEL COOPER,
 24 an individual; RICHART RUDDIE, an
 25 individual; RYAN HOLZMAN, an
 26 individual; BRAD GREENBERG, an
 27 individual; JM PICKS, an entity doing
 28 business in New York; JOHN MACK, an
 individual; RICH GARAFOLA, an
 individual; GLEN PETRELLI, an
 individual; SAL DeCARLO, an
 individual; WILLIAM "BILL" CONTI,
 an individual; D I GLOBAL
 MARKETING, LLC a New York limited
 liability company; DANIAL ITAHOV, an
 individual; CHRIS HATTON, an
 individual,

Defendants.

Case No.: 2:12-cv-01541-JCM-CWH

**SECOND AMENDED [PROPOSED]
 TEMPORARY RESTRAINING
 ORDER**

UPON CONSIDERATION of the Motion filed by plaintiff WILLIAM (BILL)
 WALTERS, ("Walters"), requesting a temporary restraining order and injunction requiring to
 immediately cease and desist all use of the plaintiff's name and image in the defendants' websites,

1 the supporting memorandum of points and authorities, the supporting declarations and evidence, the
2 record in this case, and for other good cause shown:

3 THE COURT HEREBY FINDS THAT:

4 1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1125 and 28 U.S.C.
5 §§ 1331 and 1338;

6 2. The Court has personal jurisdiction over the defendants in that defendants regularly
7 conduct business via the internet in the State of Nevada, and claim to conduct business relating to
8 sports betting in Las Vegas, in association with the plaintiff who resides in Las Vegas, Nevada, and
9 defendants committed tortious acts that they knew or should have known would cause injury to
10 plaintiff in the State of Nevada;

11 3. Plaintiff, William (Bill) Walters, is a world-renowned sports bettor, who has studied
12 and analyzed gaming for more than twenty years and has developed an unmatched expertise in
13 sports betting. Mr. Walters has invested millions of dollars over the years in technology and analysis
14 of gaming activities. He has earned hundreds of millions of dollars from his gaming investments.

15 **DEFENDANTS – COOPER PICKS, MICHAEL COOPER, RICHART RUDDIE**

16 **& RYAN HOLZMAN**

17 4. Defendants, Cooper Picks, Michael Cooper, Richart Ruddie and Ryan Holzman own
18 and operate websites at <cooperspicks.com> and <sportshandicappersmonitor.com> designed to
19 offer sports betting services and information to the gaming public. Defendants' websites also offers
20 "Billy Walters Sports Picks" claiming the picks come directly from Mr. Walters. They do not.

21 5. Defendants use the plaintiff's name and likeness, and plaintiff's world-renown
22 reputation and success in the sports betting industry on their website by offering "Billy Walters
23 Sports Picks" claiming the picks come directly from Mr. Walters. Defendants' use of plaintiff's
24 name and likeness is designed to create the impression that they are affiliated with the plaintiff and
25 to encourage bettors not only to visit their websites, but also to purchase defendants' betting
26 services, which they pass-off as those of Bill Walters.

27 6. Defendants do not have permission or consent to use the plaintiff's name and likeness
28 and have no other rights permitting such use.

7. Plaintiff has demonstrated that he will suffer irreparable harm if a temporary restraining order is not entered against these defendants directing them to remove all references to the plaintiff, including his name and image and any inferences of affiliation with the plaintiff. The public have purchased defendants' services believing they were purchasing "picks" from the plaintiff, and may blame the plaintiff for any financial losses they have incurred. The defendants shall further place a prominent disclaimer on each and every page of the website as follows:

"This site is not, and has never been associated with, the world renowned William (Bill) Walters of Las Vegas. This is not a site or service which he approves or has ever been associated with."

DEFENDANT – BRAD GREENBERG

8. Defendant, Brad Greenberg owns and operates a website at <billywalterssportsbettingpicks.com> designed to offer sports betting services and information to the gaming public. The domain name incorporates the plaintiff's name in its entirety, includes terms relating to sports betting, and is linked to a website showing both the plaintiff's name and image and a video from CBS' "60 Minutes" interview of plaintiff.

9. The website text is written in the first person as if written by the plaintiff himself. It is not. The website claims to offer "Billy Walters Picks" from the Billy Walters syndicate. Plaintiff has no such syndicate and does not offer "picks" to the public.

10. Defendant's use of plaintiff's name and likeness is designed to create the impression that he is, or he is affiliated with, the plaintiff and to encourage bettors not only to visit defendant's website, but also to purchase defendant's betting services.

11. Defendant does not have permission to use the plaintiff's name and likeness and has no other rights permitting such use.

12. Plaintiff has demonstrated that he will suffer irreparable harm if a temporary restraining order is not entered against this defendant directing him to transfer all rights in the domain name <billywalterssportsbettingpicks.com> to the plaintiff pending this litigation. The defendant must close the website or remove all references to the plaintiff, including his name and image and any inferences of affiliation with the plaintiff from the website. The public have

1 purchased defendants' services believing they were purchasing "picks" from the plaintiff, and may
2 blame the plaintiff for any financial losses they have incurred.

3 **DEFENDANTS – JM PICKS, JOHN MACK, RICH GARAFOLA,**

4 **GLEN PETRELLI & SAL DeCARLO**

5 13. Defendants, JM Picks, John Mack, Rich Garafola, Glen Petrelli and Sal DeCarlo own
6 and operate websites at <jmpicks.com> and <jmpicks.net> designed to offer sports betting services
7 and information to the gaming public. Defendants' websites also offers "Free Billy Walters Picks"
8 claiming the picks come directly from Mr. Walters. They do not.

9 14. Defendants use the plaintiff's name and likeness, and plaintiff's world-renown
10 reputation and success in the sports betting industry on their website by offering "Billy Walters
11 Sports Picks" claiming the picks come directly from Mr. Walters. Defendants' use of plaintiff's
12 name and likeness is designed to create the impression that they are affiliated with the plaintiff and
13 to encourage bettors not only to visit their websites, but also to purchase defendants' betting
14 services.

15 15. Defendants do not have permission to use the plaintiff's name and likeness and have
16 no other rights permitting such use.

17 16. Plaintiff has demonstrated that he will suffer irreparable harm if a temporary
18 restraining order is not entered against these defendants directing them to remove all references to
19 the plaintiff, including his name and image and any inferences of affiliation with the plaintiff. The
20 public have purchased defendants' services believing they were purchasing "picks" from the
21 plaintiff, and may blame the plaintiff for any financial losses they have incurred. The defendants
22 shall further place a prominent disclaimer on each and every page of the website as follows:

23
24 "This site is not, and has never been associated with, the world
25 renowned William (Bill) Walters of Las Vegas. This is not a site
or service which he approves or has ever been associated with."

26 **DEFENDANT – WILLIAM "BILL" CONTI**

27 17. Defendant, Bill Conti owns and operates a website at <sportssyndicate.com>
28 designed to offer sports betting services and information to the gaming public. Defendant's website

GREENBERG TRAURIG, LLP
 3773 Howard Hughes Parkway, Suite 400 North
 Las Vegas, Nevada 89169
 Telephone: (702) 792-3773
 Facsimile: (702) 792-9002

1 also offers “Billy Walters Picks” claiming the picks come directly from Mr. Walters. They do not.

2 18. Defendant uses the plaintiff’s name, and world-renown reputation and success in the
 3 sports betting industry on his website by offering “Billy Walters Picks” claiming the picks come
 4 directly from Mr. Walters. Defendant’s use of plaintiff’s name and likeness is designed to create the
 5 impression that defendant is affiliated with the plaintiff and to encourage bettors not only to visit
 6 defendant’s website, but also to purchase defendant’s betting services.

7 19. Defendant does not have permission to use the plaintiff’s name and likeness and has
 8 no other rights permitting such use.

9 20. Plaintiff has demonstrated that he will suffer irreparable harm if a temporary
 10 restraining order is not entered against this defendant directing him to remove all references to the
 11 plaintiff, including plaintiff’s name and image and any inferences of affiliation with the plaintiff.
 12 The public have purchased defendants’ services believing they were purchasing “picks” from the
 13 plaintiff, and may blame the plaintiff for any financial losses they have incurred. The defendants
 14 shall further place a prominent disclaimer on each and every page of the website as follows:

15
 16 “This site is not, and has never been associated with, the world
 17 renowned William (Bill) Walters of Las Vegas. This is not a site
 or service which he approves or has ever been associated with.”

18 **DEFENDANTS – DI GLOBAL MARKETING & DANIEL ITAHOV**

19 21. Defendants, DI Global Marketing and Daniel Itahov, own and operate a website at
 20 <howtoearnmoneybynet.com>. Defendant, Itahov, claims to be a full time internet marketer
 21 offering legitimate ways to earn money on the Internet. Defendants expressly acknowledge that they
 22 use “tags” or metadata in their source code allowing websites to be found. Defendants expressly
 23 acknowledge that one “tag” they use is “Billy Walters.”

24 22. The source code for Defendants’ website at <howtoearnmoneybynet.com> shows
 25 Defendants using the metadata “billy walters.” Thus, the code for Defendants’ website is
 26 specifically written to drive traffic looking for the plaintiff to the defendants’ website.

27 23. Plaintiff does not have, nor has he ever had, any affiliation with the defendants,
 28 DIGM or Itahov. Plaintiff has not, nor has he ever, given the defendants permission to use his name

1 in relation to their Internet Marketing or any business.

2 24. Plaintiff has demonstrated that he will suffer irreparable harm if a Temporary
3 Restraining Order is not entered against these defendants directing them to remove all references to
4 the plaintiff, including plaintiff's name and image on their website, and any website they have
5 created, and from any meta data and source code for their website and for any website they have
6 created. The defendants shall further place a prominent disclaimer on each and every page of the
7 website as follows:

8
9 "This site is not, and has never been associated with, the world
10 renowned William (Bill) Walters of Las Vegas. This is not a site
11 or service which he approves or has ever been associated with."

12 **DEFENDANT – CHRIS HATTON**

13 25. Defendant registered the domain name <billywalterssportspicks.com> which
14 incorporates Plaintiff's name in its entirety. The remainder of the domain name refers to sports
15 picks for which the plaintiff is world-renowned. The registrant information identifies the person as
16 the administrative and technical contact as "Billy Walters" with the email address as
17 <maxhatton@juno.com>. At this time the domain name is linked to a parked website hosted by
18 GoDaddy.com. The website currently offers advertising for sports betting related websites.

19 26. The domain name does not contain the defendant's name, and there appears to be no
20 valid basis for the defendant to register a domain name incorporating the plaintiff's name in full with
21 the terms "sports picks."

22 27. Plaintiff has demonstrated that he will suffer irreparable harm if a temporary
23 restraining order is not entered against this defendant directing him to transfer all rights in the
24 domain name <billywalterssportspicks.com> to the plaintiff pending this litigation. Also, for the
25 defendant to cease any and all use of, or references to the plaintiff, including plaintiff's name and
26 image. The defendants shall further place a prominent disclaimer on each and every page of the
27 website as follows:

28 "This site is not, and has never been associated with, the world
renowned William (Bill) Walters of Las Vegas. This is not a site
or service which he approves or has ever been associated with."

1 28. Plaintiff has demonstrated a likelihood of success on the merits of his False
2 Designation of Origin claim against defendants under the Lanham act, 15 U.S.C. § 1125(a);

3 29. Plaintiff has demonstrated likelihood of success on the merits of his cybersquatting
4 claims against defendants under the Lanham Act, 15 U.S.C. § 1125(d);

5 30. Plaintiff has demonstrated a likelihood of success on the merits of his violations of
6 rights of publicity Under N.R.S. §597.770 *et seq.*;

7 31. Plaintiff has demonstrated a likelihood of success on the merits of his deceptive trade
8 practices claim under N.R.S. 598.0903, *et seq.*;

9 32. Plaintiff has demonstrated a likelihood of success on the merits of his civil conspiracy
10 claim;

11 33. Plaintiff has demonstrated a likelihood of success on the merits of his unjust
12 enrichment claim;

13 34. Plaintiff has demonstrated a likelihood of success on the merits of his conversion
14 claim.

15 35. The balance of hardships tips in favor of plaintiff because issuance of the restraining
16 order and injunction would merely lock and transfer the infringing domain names to plaintiff
17 pending trial. Further, removing defendants' ability to use plaintiff's name and image to which they
18 have no rights does not prevent them from continuing to do business using other means of
19 advertising and promoting their services.

20 36. Failure to issue the restraining order and injunction would cause plaintiff to suffer
21 irreparable injury to his name and reputation and continue to face blame and death threats from
22 members of the public who have lost money from purchasing defendants' services believing they
23 were buying plaintiff's "picks".

24 37. There is no likelihood of harm to the public from the temporary restraining order now
25 being granted. In fact, the public would be protected by issuance of the temporary restraining order
26 because they would not be misinformed that they are buying sports betting "picks" from the plaintiff
27 when they are not.

28 ///

1 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that: plaintiff's motion for
2 temporary restraining order is hereby GRANTED;

3 IT IS FURTHER ORDERED that, pursuant to 15 U.S.C. § 1125(d)(1)(C), the domain names
4 <billywalterssportspicks.com> and <billywalterssportsbettingpicks.com> shall be immediately
5 locked by the registrar and/or its successor registrars and take all necessary actions to transfer the
6 infringing domain names to plaintiff.

7 IT IS FURTHER ORDERED that the registrar and/or its successor registrars remove all
8 existing domain name server (DNS) entries and corresponding addresses, and enter the registrar's
9 default domain name server and address entries to prevent further damage caused by the infringing
10 use of the infringing domain names.

11 IT IS FURTHER ORDERED that defendants will immediately cease and desist any and all
12 use of plaintiff's name, image, reputation, and any and all variants thereof, including, but not limited
13 to, on their websites, in their advertising, marketing and promotional materials, and in particular in
14 reference to any sports betting "picks."

15 IT IS FURTHER ORDERED that defendants shall place a prominent disclaimer on each and
16 every page of the website as follows:

17 "This site is not, and has never been associated with, the world
18 renowned William (Bill) Walters of Las Vegas. This is not a site
or service which he approves or has ever been associated with."

19 IT IS FURTHER ORDERED that defendants shall file, pursuant to 15 U.S.C. § 1116(a), with
20 this court and serve upon plaintiff within thirty (30) days after entry of this order, a report in writing
21 under oath setting forth in detail the manner and form in which defendant has complied with this
22 court's order; and

23 IT IS FURTHER ORDERED that plaintiff shall post a nominal bond of one thousand dollars
24 (\$1000) because the evidence indicates that defendants will only suffer minimal, if any, damage by
25 the issuance of this temporary restraining order.

26 **ORDER SETTING HEARING FOR PRELIMINARY INJUNCTION**

27 UPON CONSIDERATION of plaintiff's motion, the memorandum of points and
28 authorities, the supporting declarations and exhibits, the papers and pleadings on file in this matter

1 and for good cause shown:

2 1. The Court hereby sets the hearing for plaintiff's motion for preliminary injunction on
3 September 11, 2012, at 11:00 a.m. in Courtroom 6A at the Lloyd D. George United States Federal
4 Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada, 89101.

5 2. Further, the Court hereby sets the following briefing schedule relating to plaintiff's
6 motion:

7 (a) Defendants shall file and serve opposition papers, if any, no later than
8 September 6, 2012;

9 (b) Plaintiff shall file and serve its reply brief, if any, no later than September
10 10, 2012; and

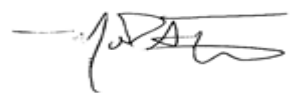
11 3. In addition, to ensure defendants receive timely notice of the hearing, given that
12 defendants must maintain accurate contact information with the domain name registrar, plaintiff
13 may, in addition to the requirements set forth in Rules 4 and 5 of the Federal Rules of Civil
14 Procedure, serve the motion, this order and all other pleadings filed to date on defendants by
15 electronic mail transmission.

16
17 
18 UNITED STATES DISTRICT JUDGE

19 Date and Time: August 30, 2012 at 3:20 p.m.

20 Respectfully submitted by:

21 GREENBERG TRAURIG, LLP

22 

23 Mark G. Tratos (Bar No. 1086)
24 Laraine Burrell (Bar No. 8771)
25 3773 Howard Hughes Parkway, Suite 400N
26 Las Vegas, Nevada 89169
27 Counsel for Plaintiff
28 WILLIAM WALTERS